



Elliott & Associates

Elliott | PROPERTY TAX UPDATE

PROPERTY TAX MINIMIZATION. IT'S ALL WE DO.



technology, transparency and property taxes

POWERED BY TECHNOLOGY, THE PROPERTY TAX APPEAL PROCESS HAS BECOME MORE TRANSPARENT — BUT ALSO MORE COMPLICATED FOR TAXPAYERS AND ATTORNEYS



Joanne Elliott, Partner

Technology is supposed to make things simpler, right? After all, technology is everywhere, powering almost every aspect of our daily lives and making almost everything we do, from online shopping and banking to staying in touch with friends and managing a business, go faster and easier.

While it was a little late in arriving, technology has also found its way into the tax assessor's office. But while technology has increased the transparency of the tax appeal process, it has also made it more complicated, demanding more data and documentation with a higher level of accuracy and detail to win an appeal.

Not so long ago, tax appeals were fairly simple. An attorney submitted basic documentation that supported an appeal, the assessing official accepted what the attorney said and either reduced the property assessment or not. But technology has now leveled the playing field. Today's assessing officials have ready access to data without leaving their desks, and rather than accepting an attorney's information at face value, they are increasingly conducting their own research before making a decision.

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In addition to thoroughly reviewing the documents submitted by the attorney, officials may review data submitted in prior appeals for the property to look for inconsistencies, as well as data submitted in appeals for similar properties to determine what true market rents or market sale prices are. This makes it more critical than ever for the attorney to provide bulletproof documentation upfront — and for the client to provide the attorney with true, complete and timely information.

In Cook County, technology has impacted virtually every aspect of the tax appeal process, from the Assessor and Board of Review and to the Property Tax Appeal Board and the Circuit Court.

In addition, the Board's staff has scanned all Cook County tax appeal records for the last few years, giving hearing officers ready access to all documents submitted by the taxpayer for current and prior tax years. The officers are taking a hard look at the evidence submitted for the current year and comparing it to evidence submitted in prior years, looking for inconsistencies. This makes it vitally important for clients and their attorneys to submit accurate and complete rent rolls and income/expense documentation to the assessing officials. If these documents are not right, the entire case can be put in jeopardy.

On the plus side, the Cook County Board of Review website now contains written comments on the reasons behind the Board's decisions. This information is readily available to the taxpayer's attorneys, allowing them to understand the Board's logic, check to see if they made any erroneous assumptions, and determine which additional documents might persuade the board to decide in the taxpayer's favor if a re-review is requested.

More Proof Needed for Vacancy Appeals

The Cook County Assessor's office is willing to grant generous tax relief if material vacancy exists — but proof of vacancy is required and they are increasingly unwilling to grant vacancy relief if the owner is not actively taking steps to cure the vacancy.

At a minimum, the Assessor wants to see a rent roll showing all spaces in the building and which spaces were vacant or occupied during the tax year, supported by a vacancy affidavit showing the square footage of vacant

space each month during the tax year. Dated photographs showing the vacant space may also be required, as well as proof of efforts to cure the vacancy, such as photographs of a "for rent" sign on the building, a listing agreement with a real estate firm and/or brochures offering the space for lease. If the assessor is not satisfied with the documentation provided, a field officer will be sent out to the property for a visual inspection to confirm the extent of the vacancy. Income and expense statements may also be reviewed to determine cash flow for the property — if the cash flow is high, the appeal may be denied, even with vacancies.

The Cook County Board of Review wants the same kind of information as the Assessor. But since they do not have staff to conduct field inspections, they may require even more thorough documentation of vacancy and efforts to cure it, or they will deny the appeal.

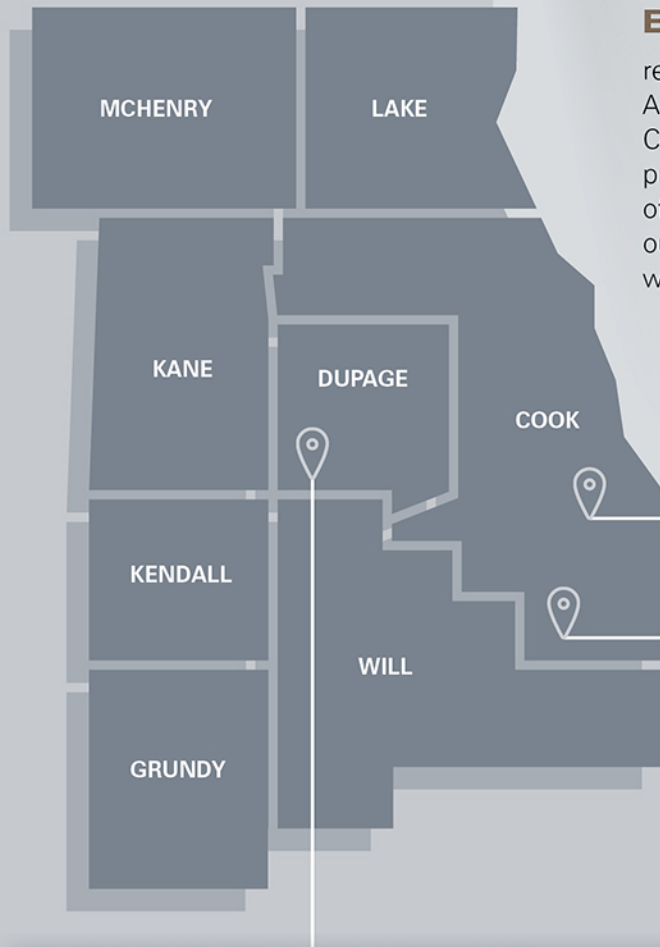
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New Board of Review Requirements

In 2015, the Cook County Board of Review began requiring attorneys to scan and upload documents submitted in tax appeal cases. This time-consuming process requires law firms to have sufficient staff and technical resources to meet a constant flow of deadlines.



results



Elliott & Associates

represents Community Associations, Hotels, Commercial, and Residential properties throughout the state of Illinois. For more examples of our results, please visit: www.elliottlaw.com/results/



Suburban Industrial Building*

— OVER —
\$1.2 M

in tax savings and refunds

*Similar not actual building



Portfolio of Limited Service Hotels

— OVER —
\$6 M

in tax savings and refunds



Office Condominium Building

— OVER —
\$239,000

in tax savings and refunds

The Challenge

A real estate developer constructed a 36,000 square foot office building as a rental property. He decided to convert the property into an office condominium building and sold about 1/3rd of the units at high prices on a per square foot basis. After experiencing difficulty selling the remaining units, the developer rented them out.

The Assessor chased the sales in the building. Sales chasing is the practice of valuing all units in a building based on a limited number of high price sales. As a result, property taxes rose to about \$4.25 psf while competing (non-condominium) office buildings typically paid about \$2.00 to \$3.00 psf. This put the developer at a competitive disadvantage and he solicited Elliott & Associates for help.

Our Approach

Elliott & Associates researched the office condominium market in DuPage County. Our team observed a thin market with limited sales to owner-occupants at high prices per square foot and about an 8-year supply of

product given low sales velocities. It was our view that sales of office condominium units to owner-occupants at high prices were speculative. Our firm engaged an appraiser to value the subject and presented our research. The appraiser conducted his own independent analysis and essentially agreed with Elliott's valuation. The appraiser valued the subject units at values similar to office buildings held for rent rather than office condominium units that sold in the then current market.

Results

Elliott filed tax appeals to the DuPage County Board of Review several years in a row. The Board denied our appeals and we appealed to the Property Tax Appeal Board (PTAB). Our firm eventually settled each of the PTAB cases by convincing the assessing officials that market values were close to the appraised values despite the limited high-priced sales within the building. All told, Elliott saved the client over \$239,000 in taxes over a five-year period in the form of reduced tax bills and tax refunds. Taxes are now stabilized and competitive at around \$2.25 psf.

a team built around you

CELEBRATING
20 YEARS
OF EXCELLENCE



Our mission is to obtain the lowest taxes possible for every client every day. We are pleased to have saved our clients more than 280 million tax dollars since 1995.

Over the past 20 years, our firm has evolved from a two-attorney practice to a talented, experienced team of more than 30. While our firm has grown, our goal remains the same: to deliver best-in-class results to you. Though your contact with us may be limited to just a few team members, you will benefit from the depth and breadth of our entire firm.

To serve you better, our team includes six attorneys and two analysts with more than 90 years of combined experience in the property tax field. Our support staff utilizes well-defined systems to handle the routine, time-consuming details involved in the tax appeal process, freeing our attorneys and analysts to focus their skills on important issues such as appeal strategy, analysis and advocacy.

Having the right people do the right work is important to maximizing your appeal results. Each of our attorneys and senior business managers oversees key practice areas, allowing them to effectively manage your appeal and build rapport with assessing officials. They also serve as a knowledgeable resource for other team members — a uniquely collaborative approach that leverages individual strengths to produce superior results for you.

Our attorneys and managers are supported by an appraisal team which includes individuals with appraisal experience. These professionals assist in selecting the right appraiser if your appeal requires one, provide third-party appraisers with pertinent property information and when appropriate, offer Elliott & Associates' own theory of what a property is worth and why.

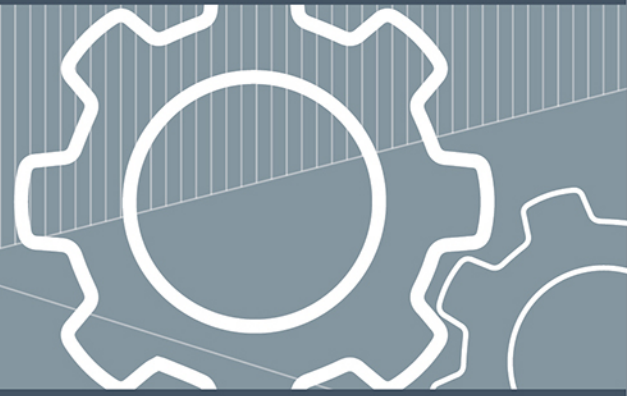
Our docket manager ensures that your appeal proceeds smoothly, monitoring a continuous series of critical filing deadlines and making sure documents, appraisals and legal briefs are obtained or prepared and delivered on time.

While our team's capabilities are important to obtaining maximum results, achieving a rapid and effective response to an appeal decision is equally important. With only a few days to request reconsideration of initial decisions, our team goes on high alert when assessment results are issued. We review the results and published file notes of the assessing officials (when available) to determine if errors may have been made, questions remain unanswered, or additional documents may be required to grant you a larger reduction. We may then request reconsideration of the initial decision or file a further appeal.

As an Elliott & Associates client, you can rest assured that your property taxes are under control. Our goal is to help guide you through the increasingly complex property tax appeal process while ensuring you pay the lowest taxes possible.

A Proactive Approach to Reducing Your Property Taxes

In 2015, Elliott & Associates prepared an electronic portfolio for each of our clients' commercial properties in Cook County that includes street view photos, aerial photos superimposed over tax maps and assessor property record card drawings. Our attorneys and analysts use this information to learn about client properties, look for errors that may give rise to a successful tax appeal, obtain accurate square footage information for appraisals and tax appeals, and provide valuation benchmarks. Moving forward, we will be proactively looking for clients' properties that are assessed higher than applicable benchmarks in order to aggressively appeal them.



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Higher Hurdles for Cash Flow Valuation Appeals

Tax appeals are often filed that value a property based on the cash flow it generates. In these cases, the assessing officials require documentation to show what the income and expenses of the property are, including income statements and/or tax returns as proof of cash flow. Then it is up to the attorney to prepare a convincing analysis.

Today, assessing officials also require submission of rent rolls showing, for each space in the building, the starting and ending dates of the lease, the total rent paid, the lease basis (gross, net, modified gross, etc.) and the square footage of the space. If the numbers on the rent roll don't add up (i.e., the rents reported are not in line with the market or do not correspond to the income statements or tax returns), the assessing officials may want to see the leases themselves to determine what the true facts are.

Closer Review of Property Appraisals

The easier access to information afforded by technology has also increased the pushback coming from assessing officials in appraisal-based cases.

The assessing officials are increasingly not accepting appraisals at face value. They often research, review and/or critique the comparable sales presented by the appraiser, and may even challenge the appraiser's methodologies. In addition, the assessing officials often independently research their own comparables to support a higher valuation.

When tax appeal cases are taken to the Circuit Court of Cook County, the State's Attorney will often review

documents recorded with the Recorder of Deeds looking for recent mortgages showing that the taxpayer borrowed a sum greater than the appraised value submitted in a tax appeal.

Choosing a Tax- and Tech-Savvy Law Firm

As the property tax appeal process has become more complex, the decision to hire a property tax attorney has become more critical. Before engaging a property tax law firm, prospective clients should consider these key questions:

- 1. Do the firm's attorneys truly understand** the transparency that now characterizes the tax appeal process?
- 2. Has the firm stayed abreast of the technological developments** and resulting changes in mindsets and policies that have occurred in the offices of the assessing officials?
- 3. Have they made the significant investment in technology** necessary to provide the comprehensive, timely information this new tax appeal environment demands?
- 4. Do they have enough support staff** to handle the details and documentation, freeing up the attorneys to focus on consulting with clients and developing appeal strategies?
- 5. Does the firm proactively reach out** to clients to make clear what actions they need to take and what information they need to provide to help ensure a successful appeal?

Elliott & Associates has information, tools and resources to help taxpayers understand and navigate the new realities of today's technology-driven property tax appeal environment.

Learn more at www.elliottlaw.com



Elliott & Associates

PROPERTY TAX ATTORNEYS

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Our New Website is Here!

Elliott & Associates is proud to announce our newly redesigned website filled with resources for clients, potential clients, and referring attorneys. We invite you to visit us at: **www.elliottlaw.com** to learn more.